

# **APPLICANT GUIDE FOR TIME SHARE PROJECT REGISTRATION**

North Carolina Real Estate Commission  
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**Q: What will I need to make an application for time share project registration?**

A: You may obtain the necessary application materials from the Commission office or at [www.ncrec.state.nc.us](http://www.ncrec.state.nc.us). Please refer to the time share project registration package. The package contains:

1. A copy of G.S. 93A, the North Carolina Time Share Act and the rules of the North Carolina Real Estate Commission which accompany it.
2. An Application for Time Share Project Registration, together with all necessary documents attached, as listed in the application, or as otherwise requested in this instruction sheet.
3. Affidavit forms for Acceptance of Position by Project Brokers, Registrars and Independent Escrow Agents.

**Q: Why is it necessary to follow the form requirements for the documents?**

A: We ask that documents be submitted in proper form-bound between firm covers approximately 9" by 15", with pages numbered consecutively (or at least numbered consecutively document by document), labeled and tabbed. This allows us to handle the files efficiently during the examination process, and to easily identify any part in a document about which we may have questions.

**Q: Can a developer make the filing without the assistance of an attorney?**

A: A developer may make the filing without an attorney, but the Commission staff strongly advises developers to obtain the services of an experienced attorney. The Real Estate Commission cannot recommend particular attorneys. In any event, the required title opinion must be prepared by an attorney.

**Q: Are there time share legal foundation documents which are available from the Commission?**

A: There are no forms or "fill-in-the-blank" documents available from the Commission.

**Q: Are there time share documents on file with the Commission which I may use as a guide?**

A: All time share project registration project files are public record and, as such, are open to inspection. However, each time share project is substantially different from every other project. Thus, a declaration of time sharing composed for a multi-condominium project, consisting of a series of phased construction condominiums, would be of little use to those planning a Tenants-in-Common arrangement in a motel being converted to time sharing. In addition, our law and rules have changed significantly since 1984, when the bulk of our projects were filed.

It is best to have legal foundation documents fashioned expressly for your particular project. Remember that documents which are well written, internally consistent, and well thought out, and which describe a project which will operate practically and efficiently will benefit the developer not only during the sales period, but will be essential to protect the developer from future lawsuits by disgruntled owners.

**Q: Can I ask for assistance from Commission staff during the process of applying?**

A: Yes. We cannot give individual legal advice or write your documents for you, but we will be glad to answer questions, give general drafting advice and otherwise be as helpful as possible.

**Q: What is the procedure for examining the application after it is received? How long will it take for the Commission to accept my Application for Registration of my time share project?**

A: We must first receive the application properly completed with all the items required by the Time Share Act and the Rule. We cannot process an application unless the appropriate registration fee is received. Without the fee, we will return the application to you unprocessed. A fee schedule is included in the application package.

After receiving an application, we have fifteen (15) days to determine whether it appears to be “properly completed.” Proper completion is defined by the Commission Rule B.0101(b) as “...when...(the application) ... is wholly and accurately filled out and when all required documents are appended to it and appear to be in compliance with the provisions of the Time Share Act, and, where the project is a condominium, the Condominium Act or Unit Ownership Act.”

All the documents submitted will be carefully examined for compliance with the applicable law and rules. Although we make every effort to examine applications rapidly, the developer should allow the full fifteen (15) days for review. Almost always, a “Notice of Improper Completion” will be prepared in the form of a deficiency letter. The letter will specifically identify incomplete items, revisions we request, and may also pose certain questions. To expedite the process, the developer should reply in writing to the notice as soon as possible. After a response is made, staff will ask the Commission to either accept

or deny the application at its first regularly scheduled meeting following the receipt of the completed application and response to any deficiency letter. When it meets, the Commission will consider all material submitted by the developer as well as the moral character of those directing the sale and management of the project. If the project is accepted, the developer will be immediately notified in writing and we will issue a Time Share Project Registration Certificate, which must be displayed at the project. If the application for the project registration is denied, the developer will be notified of the specific reasons for the denial and be given the opportunity for a hearing under the provisions of Chapter 150B of the General Statutes.

**Q: Will the Real Estate Commission “approve” my application?**

A: No. The Commission is unable to “approve” any developer’s application or to express an opinion as to the merits of the offering. G.S. 93A-52(c) provides, “The acceptance by the Commission of an application for the registration shall not constitute the approval of its contents nor waive the authority of the Commission to take disciplinary action as provided by this Article.”

**Q: Can my application be given special consideration, or be placed in front of review of other pending applications?**

A: No. As explained earlier, every effort is made to promptly examine the applications, but the process does take time. A careful review ultimately benefits the developer, as problems are caught and solved in the examination process. Those in genuine hardship situations may make a written request for an expedited review. Developer financial problems are not considered justification for an expedited review.

**Q: What are my responsibilities after my application has been accepted?**

A: The developer is obligated by G.S. 93A-52(a) and Commission Rule B.0201 to ensure that information in the public offering statement is accurate on the date it is distributed to purchasers. You are required by G.S. 93A-52(a) and Commission Rule B.0104 to submit amendments, making necessary changes promptly. Most developers will find it is necessary to make some amendment during the sale period, when management firms change, recreational facilities are completed, additional phases are added and so forth. Also, changes in the time share law or in the Commission’s rules in the administrative code change from time to time, requiring all developers to make certain revisions. You will be notified regarding these changes by periodic bulletins from our office.

Remember that amendments must be submitted in the format required by Commission Rule B.0104. Please also remember that only the developer or his attorney may make amendments, not project brokers, managers or other individuals.

**Q: What if I change project brokers, registrars or independent escrow agents after initial filing acceptance?**

A: Such changes are not required to be submitted in the Rule B.0104 format. Remember that first the developer must designate the persons in writing, then the persons designated accept the position in writing. Your application package includes several forms to be used for this purpose. If you need more, go to [www.ncrec.state.nc.us](http://www.ncrec.state.nc.us) for *forms* or call the time share section of the Commission. Keep several on hand to avoid any delay. Be sure that such affidavits are submitted promptly and are accurately completed.

Project Brokers should be told that their execution of the affidavit for the Time Share Section does not relieve them of the duty to file the necessary forms as usual with our Records Section.

**Q: How do I indicate a change in brokers during the sales period?**

A: The broker must file the necessary forms as usual with our records section. Additionally, the time share section must be kept up-to-date independently. Use a cover letter, and simply list the personnel changes.

**Q: What about the annual renewal of my time share project?**

A: All developers selling or offering to sell time shares must renew their registration on or before June 30 of each year. Renewal may be accomplished by properly completing the renewal form, (which you can get at [www.ncrec.state.nc.us](http://www.ncrec.state.nc.us)) and attaching a certified check or money order for \$750.00. Annual renewal must be done throughout the sales period. It is unlawful to offer to sell or to sell time shares when the registration has expired. Unauthorized sales can subject those involved to discipline by the Real Estate Commission, possible civil suit and potential criminal liability.

**Q: What is the procedure when I have completed sales, sell my interest in the project to another, or wish to cease selling for any reason?**

A: G.S. 93A-52(a) requires the developer to notify the Commission of the situation, and Rule B.0105 describes the "Notice of Termination" which must be filed. Go to [www.ncrec.state.nc.us](http://www.ncrec.state.nc.us) or contact the time share section for the form.